



CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC-2010-0038]

Agency Information Collection Activities; Proposed Collection; Comment Request; Third Party Testing of Children's Products

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995, the Consumer Product Safety Commission (CPSC) announces that the CPSC has submitted to the Office of Management and Budget (OMB) a request for extension of approval of a collection of information for Third Party Testing of Children's Products, approved previously under OMB Control No. 3041-0159. In the *Federal Register* of April 13, 2022, the CPSC published a notice to announce the agency's intention to seek extension of approval of the collection of information. The Commission did not receive any comments on the proposed extension of approval. By publication of this notice, the Commission announces that CPSC has submitted to the OMB a request for extension of approval of that collection of information, without change.

DATES: Submit written or electronic comments on the collection of information by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit comments about this request by email: OIRA_submission@omb.eop.gov or fax: 202-395-6881. Comments by mail should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the CPSC, Office of Management and Budget, Room 10235, 725 17th Street N.W., Washington, DC 20503. In addition, written comments that are sent to OMB, also should be submitted electronically at: <http://www.regulations.gov>, under Docket No. CPSC-2010-0038.

FOR FURTHER INFORMATION CONTACT: Cynthia Gillham, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504-7791, or by e-mail to: cgillham@cpsc.gov.

SUPPLEMENTARY INFORMATION: CPSC seeks to renew the following currently approved collection of information:

Title: Third Party Testing of Children's Products

OMB Number: 3041-0159

Type of Review: Renewal of collection of information for third party testing of children's products, which includes: (1) previously approved burden for marking and labeling of certain durable infant and toddler products; (2) the labeling and recordkeeping requirements (not covered by the Commission's third party testing rule at 16 CFR part 1107) set forth in the rule establishing requirements for electrically operated toys or other electrically operated articles intended for children (16 CFR part 1505) (electrically operated toys and other articles rule); and (3) recordkeeping and labeling requirements set forth in the ban on articles known as "baby bouncers" or "walker-jumpers" (baby bouncer/walker-jumper rule, 16 CFR 1500.18(a)(6) and 1500.86(a)(4)), or similar articles that are not covered by the safety standard for infant walkers (16 CFR part 1216) and that also are not covered by the third party testing rule or any other rule issued under section 104 of the Consumer Product Safety Improvement Act.

General Description of Collection:

Testing and Certification: On November 8, 2011, the Commission issued two rules for implementing third party testing and certification of children's products, as required by section 14 of the Consumer Product Safety Act (CPSA):

- *Testing and Labeling Pertaining to Product Certification* (76 FR 69482, codified at 16 CFR part 1107; the testing rule); and
- *Conditions and Requirements for Relying on Component Part Testing or Certification, or Another Party's Finished Product Testing or Certification to*

Meet Testing and Certification Requirements (76 FR 69547, codified at 16 CFR part 1109; the component part rule).

The testing rule establishes requirements for manufacturers to conduct initial third party testing and certification of children's products, testing when there has been a material change in the product, continuing testing (periodic testing), and guarding against undue influence. A final rule on *Representative Samples for Periodic Testing of Children's Products* (77 FR 72205, Dec. 5, 2012) amended the testing rule to require that representative samples be selected for periodic testing of children's products.

The component part rule is a companion to the testing rule that is intended to reduce third party testing burdens, by providing all parties involved in the required testing and certifying of children's products the flexibility to conduct or rely upon testing where testing is the easiest and least expensive to accomplish. Certification of a children's product can be based upon one or more of the following: (a) component part testing; (b) component part certification; (c) another party's finished product testing; or (d) another party's finished product certification.

Section 1107.26 of the testing rule states the records required for testing and selecting representative samples. 16 CFR 1107.26. Required records include a certificate, and records documenting third party testing and related sampling plans. These requirements largely overlap the recordkeeping requirements in the component part rule, codified at 16 CFR 1109.5(g).

Duplicate recordkeeping is not required; records need to be created and maintained only once to meet the applicable recordkeeping requirements. The component part rule requires records that enable tracing a product or component back to the entity that had a product tested for compliance; the rule also requires attestations of due care to ensure test result integrity.

Section 104 Rules: The Commission has issued 26 rules for durable infant and toddler products under section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA) (section 104 rules). The Section 104 rules that have been issued, to date, appear in Table 1. Each section 104 rule contains requirements for marking, labeling, and instructional literature:

- Each product and the shipping container must have a permanent label or marking that identifies the name and address (city, state, and zip code) of the manufacturer, distributor, or seller.
- A permanent code mark or other product identification shall be provided on the product and its package or shipping container, if multiple packaging is used. The code will identify the date (month and year) of manufacture and permit future identification of any given model.

Each standard also requires products to include easy-to-read and understand instructions regarding assembly, maintenance, cleaning, use, and adjustments, where applicable. See, e.g., sections 8 (marking and labeling) and 9 (instructional literature) of every ASTM voluntary standard incorporated by reference into a CPSC mandatory standard, as listed in Table 1.

OMB has assigned control numbers for the estimated burden to comply with marking and labeling requirements in each section 104 rule. With this renewal, CPSC is moving the marking and labeling burden requirements for four additional section 104 rules that have been issued since the last renewal in 2019, into the collection of information for Third Party Testing of Children's Products (bold font in Table 1). The paperwork burdens associated with the section 104 rules are appropriately included in the collection for Third Party Testing of Children's Products because all the section 104 products are also required to be third party tested. Having all of the burden hours under one collection for children's products provides one OMB control number and eases the administrative burden of renewing multiple collections. CPSC will discontinue using the OMB control numbers currently assigned to individual section 104 rules. The discontinued OMB control numbers are listed in Table 1.

Electrically Operated Toys and Other Articles: The requirements for electrically operated toys and other electrically operated articles intended for use by children are set forth in 16 CFR part 1505. The regulation establishes certain criteria to use in determining whether electrically operated toys and other electrically operated children's products are banned and requires that

certain warning and identification labeling be included on both the product and the packaging. The regulation also requires that manufacturers establish a quality assurance program to assure compliance and to keep records pertaining to the quality assurance program. Additionally, manufacturers or importers must keep records of the sale and distribution of the products.

Baby-Bouncer/Walker-Jumper Rule: The requirements for baby bouncers, baby walkers, and similar articles that are not covered by 16 CFR part 1216 (Safety Standard for Infant Walkers) are set forth under 16 CFR 1500.18(a)(6) and 1500.86(a)(4). These regulations establish criteria to use in determining whether certain baby-bouncers, walker-jumpers, or similar products are banned. The regulation requires that each product be labeled with information that will permit future identification by the manufacturer of the particular model of bouncer or walker-jumper. In addition, manufacturers must maintain records of sale, distribution, and results of tests and inspections for 3 years and make such records available to CPSC, upon request. Products covered under this regulation are not duplicative of an existing section 104 rule.

Frequency of Response: On occasion

Affected Public: Manufacturers and importers of children's products subject to a children's product safety rule.

Estimated Number of Respondents:

Testing and Certification: The recordkeeping requirements in parts 1107 and 1109 apply to all manufacturers or importers of children's products that are covered by one or more children's product safety rules promulgated and/or enforced by CPSC. To estimate the number of respondents, we reviewed every industry category in the NAICS and selected industry categories that included firms that could manufacture or sell such children's products. Using data from the U.S. Census Bureau, we determined that there are more than 20,000 manufacturers, almost 85,000 wholesalers, and about 263,000 retailers in these categories. However, not all of the firms in these categories manufacture or import children's products that

are covered by children's product safety rules. Therefore, these numbers would constitute a high estimate of the number of firms that are subject to the recordkeeping requirements. Accordingly, when calculating the recordkeeping burden, CPSC relies on estimates of the number of children's products that are manufactured or imported. We estimate that approximately 311,400 non-apparel children's products and approximately 1.2 million children's apparel and footwear products are covered by the rules.

Section 104 Rules: Table 1 summarizes the section 104 rules for durable infant or toddler products subject to the marking and labeling requirement that have been or are now being moved into OMB control number 3041-0159. Table 1 contains the estimated number of manufacturers and models and the total respondent hours. The four new section 104 rules being moved into this information collection are shown in bold text.

Table 1: Estimated Burden for Marking and Labeling in Section 104 Rules

Discontinued OMB Control Number	16 CFR Part	Description	Mfrs.	Models	Total Respondent Hours
3041-0145	1215	Safety Standard for Infant Bath Seats	12	2	24
3041-0141	1216	Safety Standard for Infant Walkers	19	4	76
3041-0150	1217	Safety Standard for Toddler Beds	111	10	1,110
3041-0157	1218	Safety Standard for Bassinets and Cradles	72	4	288
3041-0147	1219	Safety Standard for Full-Size Cribs	80	13	1,040
3041-0147	1220	Safety Standard for Non-Full-Size Cribs	39	2	78
3041-0152	1221	Safety Standard for Play Yards	34	4	136
3041-0160	1222	Safety Standard for Infant Bedside Sleepers	13	2	26
3041-0155	1223	Safety Standard for Swings	6	8	48
3041-0149	1224	Safety Standard for Portable Bedrails	18	2	36
3041-0158	1225	Safety Standard for Hand-Held Infant Carriers	78	2	156
3041-0162	1226	Safety Standard for Soft Infant and Toddler Carriers	44	3	132
3041-0164	1227	Safety Standard for Carriages and Strollers	100	7	700
3041-0167	1228	Safety Standard for Sling Carriers	1,000	2	8,500*
3041-0174	1229	Safety Standard for Infant Bouncer Seats	26	4	104
3041-0166	1230	Safety Standard for Frame Child Carriers	14	3	42
3041-0173	1231	Safety Standard for High Chairs	83	3	249
3041-0172	1232	Safety Standard for Children's Folding Chairs and Stools	17	2	34
3041-0170	1233	Safety Standard for Hook-On-Chairs	7	1	7

3041-0171	1234	Safety Standard for Infant Bath Tubs	27	2	54
3041-0175	1235	Safety Standard for Baby Changing Products	141	6	846
	1236	Safety Standard for Infant Sleep Products	1,325	6,528	68,650*
3041-0178	1237	Safety Standard for Booster Seats	52	2	104
3041-0179	1238	Safety Standard for Stationary Activity Centers	11	4	44
3041-0182	1239	Safety Standard for Gates and Enclosures	127	3.6	9,496*
3041-0185	1241	Safety Standard for Crib Mattresses	38	10	380
Total Burden Hours					92,280

*Includes additional hours for instructional literature.

*Includes 6,500 hours for instructional literature.

**Includes 60,000 hours for instructional literature.

*** Includes 8,000 hours for instructional literature. The total estimated burden associated with labels is 1,416 hours. Eighty small firms produce 2 models, while an additional 37 entities are estimated to produce 8 models. Therefore, the 127 entities produce, on average, 3.6 models.

Electrically Operated Toys and Other Articles Rule: CPSC staff estimates that about 40 manufacturers and importers are subject to this regulation.

Baby-Bouncer/Walker-Jumper Rule: CPSC staff estimates that about six firms are subject to the testing and recordkeeping requirements of this regulation.

Estimated Time per Response:

Testing and Certification: We estimate that approximately 311,400 non-apparel children's products are covered by the rule and that an average of 5 hours per year will be needed for the recordkeeping associated with these products. We also estimate that there are approximately 1.2 million children's apparel and footwear products, for which an average of 3 hours of recordkeeping will be required per year. Manufacturers that are required to conduct periodic testing have an additional recordkeeping burden estimated at 4 hours per representative sampling plan.

Section 104 Rules: Each section 104 rule contains a similar analysis for marking and labeling that estimates the time to make any necessary changes to marking and labeling requirements at 1 hour per model. Some section 104 rules also contain requirements for instructional literature, and we have included estimates for instructional literature in this analysis, where required.

Electrically Operated Toys and Other Articles: Products subject to this regulation are also subject to the requirements of the testing rule. Therefore, the burden of any duplicative recordkeeping requirements will not be reported here, to avoid double-counting the burden. CPSC staff estimates that the additional burden imposed by this regulation over that imposed by the testing rule, is 30 minutes per product, to maintain sales and distribution records for 3 years, and 1 hour to make labeling changes per model.

Baby-Bouncer/Walker-Jumpers CPSC staff estimates that firms will spend 1 hour per model on recordkeeping requirements, and 1 hour per model on labeling requirements.

Total Estimated Annual Burden:

Testing and Certification: The total estimated annual burden for recordkeeping associated with the testing rule is 5.2 million hours ((311,400 non-apparel children's products x 5 hours per non-apparel children's product) + (1,200,000 children's apparel products x 3 hours per children's apparel product) = 1.6 million hours + 3.6 million hours, or a total of 5.2 million hours). Next, we describe the potential additional annual burden associated with use of a representative sampling plan and component part testing.

Representative Sampling Plans for Periodic Testing: We estimate that if each product line averages 50 individual models or styles, then a total of 30,000 individual representative sampling plans (1.5 million children's products ÷ 50 models or styles) would need to be developed and documented. This would require 120,000 hours (30,000 plans x 4 hours per plan). If each product line averages 10 individual models or styles, then a total of 150,000 different representative sampling plans (1.5 million children's products ÷ 10 models or styles) would need to be documented. This would require 600,000 hours (150,000 plans x 4 hours per plan). Accordingly, the requirement to document the basis for selecting representative samples could increase the estimated annual burden by up to 600,000 hours.

Component Part Testing: The component part rule shifts some testing costs and some recordkeeping costs to suppliers of component parts and finished products because some testing will be performed by these parties, rather than by the finished product certifiers (manufacturers and importers). Even if a finished product certifier can rely entirely on component part and finished product suppliers for all required testing, however, the finished product supplier will still have some recordkeeping burden to create and maintain a finished product certificate. Therefore, although the component part testing rule may reduce the total cost of the testing required by the testing and certification rule, the rule increases the estimated annual recordkeeping burden for those who choose to use component part testing.

Because we do not know how many companies participate in component part testing and supply test reports or certifications to other certifiers in the supply chain, we have no concrete data to estimate the recordkeeping and third party disclosure requirements in the component part rule. Likewise, no clear method exists for estimating the number of finished product certifiers who conduct their own component part testing. In the component part rulemaking, we suggested that the recordkeeping burden for the component part testing rule could amount to 10 percent of the burden estimated for the testing and labeling rule. 76 FR 69546, 69579 (Nov. 8, 2011). Currently, we have no basis to change this estimate.

In addition to recordkeeping, the component part rule requires third party disclosure of test reports and certificates, if any, to a certifier who intends to rely on such documents to issue its own certificate. Without data, allocation of burden estimation between the recordkeeping and third party disclosure requirements is difficult. However, based on our previous analysis, we continue to estimate that creating and maintaining records accounts for approximately 90 percent of the burden, while the third party disclosure burden is much less, approximately 10 percent. Therefore, if we continue to use the

estimate that component part testing will amount to about 10 percent of the burden estimated for the testing rule, then the hour burden of the component part rule is estimated to be about 520,000 hours total annually (10% of 5.2 million hours); allocating 468,000 hours for recordkeeping and 52,000 hours for third party disclosure.

Section 104 Rules: The burden for marking and labeling for each section 104 rule is provided in Table 1. The estimated total number of respondent hours is 92,280.

Electrically Operated Toys and Other Articles Rule: Assuming each of the 40 firms produces 10 new models per year, the estimated annual burden is 200 hours for recordkeeping (40 firms x .5 hour x 10 models) and 400 hours for labeling changes (40 firms x 1 hour x 10 models), for a total estimated annual burden of 600 hours.

Baby-Bouncer/Walker-Jumper Rule: Firms are expected to test, on average, four new models per year. Accordingly, the estimated annual burden is 12 hours on recordkeeping (6 firms x 1 hour x 2 models), and 12 hours on labeling (6 firms x 1 hour x 2 models), for a total estimated annual burden of 24 hours per year.

Alberta E. Mills,
Secretary,
Consumer Product Safety Commission.

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